REMARKS/ARGUMENTS

Claims 1-24 were pending and examined. The Examiner rejected claims 1-7, 10-16, and 18-23 under 35 USC § 102(b) as anticipated by Tzelnic (USPN 6,061,504). The Examiner rejected claims 6-9, 23-24, and 15-17 under 35 USC § 103(A) as unpatentable over Tzelnic in view of Henson (USPN 5,465,343). In this response, Applicant has amended claims 1, 2, and 18 and canceled claims 22-24. Claims 1-21 remain pending.

Claims rejections under 35 USC § 102(b)

The Examiner rejected independent claims 1 and 10 under 35 USC § 102(b) as anticipated by Tzelnic. In response to this rejection, Applicant has amended claims 1 and 10 to recite that the claimed method includes determining a first network transfer rate for a first client/server connection and a second network transfer rate for a second client/server connection where the first and second network transfer rates are different. In addition, claim 1 as amended recites that determining when to transmit subsequent portions of the requested data is based on the respective determined network transfer rates such that the subsequent portion is sent to the first client at a different time than the subsequent portion is sent to the second client. Support for these amendments is found in the specification at page 3, lines 25-31, and at page 8, lines 2-12.

The cited references fail to disclose or suggest all of the limitations of claim 1 as amended herein because Tzelnic does not teach or suggest the calculation of client-dependent network transfer rates as recited in the amended claim. In rejecting claim 1 as originally presented, the Examiner states that Tzelnic teaches determining the network transfer rate of a network connection at column 6 lines 24-43. The cited passage of Tzelnic reads as follows:

> In a preferred mode of operation, to archive data from a file from the network to tape, one of the stream servers **21** receives the file from the network **25** and prestages the file to the integrated cached disk array **23** at a high rate limited by the network transmission rate (about 150 GB/hour). Then one of the stream servers **21** destages the file from the integrated cached disk array **23** to an associated one of the read/write stations **51** at a tape device speed (about 7 GB/hour). For most applications, prestaging to disk can be done immediately, and staging from disk to tape including sorting of files onto respective tape cassettes can be done as a background operation or at night, when the load on the video server is at a minimum. In this fashion, the integrated cached disk array

> **23** can absorb a high data inflow aggregation from tens or hundreds of network links streaming from multiple sites, and balance this load on the read/write stations **57**. Prestaging to the integrated cached disk array allows better use of the read/write stations **51**, matching of server flow to tape streaming flow, and reduction of tape and read/write station wear. Tzelnic at column 6, lines 24-43.

The cited passage of Tzelnic clearly does not teach or suggest the calculation of a client dependent network transfer rate or any sort of calculation about when to retrieve parts of a requested data object based on the differing network transmission rates. To the contrary, Tzelnic clearly suggests a ***constant*** network transmission rate (of 150 GB/hour). The constant network transmission rate is valid in the case of Tzelnic because the network transmission rate as used in Tzelnic refers to the transfer rate within video file server **20**. Specifically, the network transmission rate referred to in Tzelnic identifies the transmission rate between stream server **21** and integrated cached disk array **23**. The closest analogy in Tzelnic to the client/server network transmission rate of the present application as recited in the claims under consideration would be the transmission rate between clients **54** and video server **20** via network **25**. Tzelnic contains no teaching or suggestion to calculate the transmission rates between video server **20** and client #1 (**54**), video server **20** and client #2 (**54**), and so forth.. Moreover, the inclusion by Tzelnic of an Asynchronous Transfer Mode (ATM) switch **53** between clients **54** and video server **20** combined with Tzelnic's emphasis on "isochronous" (constant bit rate) tasks such as real time video, suggests that the bit rate from the various stream servers **26** to the various clients is invariant and depends only upon factors such as the type of compression used. See, e.g., column **22** lines **57** through **63** of Tzelnic: the amount of RAM for storing a movie depends on the length of the movie and the bit rate at which the encoded movie is delivered; this bit rate is typically a function of the method by which the video data are encoded (such as MPEG I or MPEG II).

Because the cited reference fails to teach or suggest the limitations of independent claims 1 and 10 as amended herein, Applicant would respectfully request the Examiner to reconsider and withdraw the rejections of these independent claims and all claims depending therefrom.

The various client/server connections described in Tzelnic are not conventional TCP/IP connections typical of a user who accesses information on the world wide web using a conventional web browser. The bit rates of different TCP/IP connections to a common server

can vary widely depending upon a multitude of factors including, for example, whether the user has dial up access, a DSL connection, and so forth.

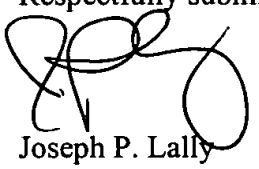
This distinction between the present invention and the teachings of Tzelnic is further emphasized in dependent claims 2 and 11, where the client/server connection is recited as a TCP/IP connection. Although Tzelnic refers to TCP/IP in its description of the software used to implement video server **20**, it is clear from the description that the video server uses TCP/IP "internally" to fetch disked data from array **23** and/or tape silo **24**. In contrast, the invention as recited in claim 2 recites a TCP/IP connection between the end user client and a server accessed via an intermediate network. The analogous connection in Tzelnic is clearly not a TCP/IP connection. Accordingly, Applicant would respectfully request the Examiner to reconsider and withdraw the rejections of dependent claims 2 and 11.

With respect to independent claim 18, Applicant has amended the claim to incorporate the limitations of dependent claim 24 (and all intervening claims). As amended herein, independent claim 18 recites the same limitations as originally presented claim 24. Consistent with the Examiner's determination that the cited references failed to disclose or suggest the limitation of originally presented claim 24, Applicant would submit the independent claim 18 as amended herein and all claims depending thereon are in condition for allowance.

In the present response, Applicant has responded to the Examiner's claim rejections under 35 USC §§ 102(b) and 103(a). Accordingly, Applicant believes that this response constitutes a complete response to each of the issues raised in the office action. In light of the amendments made herein and the accompanying remarks, Applicant believes that the pending claims are in condition for allowance. Accordingly, Applicant would request the Examiner to withdraw the rejections, allow the pending claims, and advance the application to issue. If the Examiner has

any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference at 512.428.9872.

Respectfully submitted,



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